
**Criminal Justice & Corrections
Committee**

HB 1072

Brief Description: Including salts, isomers, and salts of isomers in controlled substances provisions.

Sponsors: Representatives Lovick and Pearson.

Brief Summary of Bill

- Includes "salts, isomers, and salts of isomers" of flunitrazepam, amphetamine, methamphetamine, ephedrine, pseudoephedrine, and anhydrous ammonia in the controlled substances provisions under the Uniform Controlled Substances Act.

Hearing Date: 1/25/05

Staff: Yvonne Walker (786-7841).

Background:

Generally, it is illegal for a person to possess various controlled substances. Under the Uniform Controlled Substances Act, the degree of restriction exercised over a controlled substance is dependent on the potential for abuse and the degree of psychic or physical dependency which may be caused by the substance. Controlled substances are placed in five different schedules to reflect the amount of control necessary, with Schedule I being the most controlled, and Schedule V being the least restricted. The penalty for violations involving a controlled substance varies depending on the schedule on which the substance is placed.

It is a class B felony offense for a person to manufacture, deliver, or possess with intent to manufacture or deliver a Schedule I (e.g., heroin) or Schedule II narcotic drug (e.g., cocaine), flunitrazepam (also known as Rohypnol, the date rape drug), amphetamine, and methamphetamine. These offenses elevate to class A felonies when an adult distributes the controlled substances to a child under 18 years old.

It is a class B felony for any person to possess pressurized ammonia gas solution (anhydrous ammonia) with intent to manufacture methamphetamine. It is also a class B felony (known as endangerment with a controlled substance) to knowingly or intentionally permit a child or dependent adult to be exposed to methamphetamine, ephedrine, pseudoephedrine, or anhydrous ammonia, that are being used in the manufacture of methamphetamine.

It is a class C felony offense for a person to manufacture, deliver, or possess with intent to manufacture or deliver a Schedule IV controlled substance (except flunitrazepam) such as barbital.

A portion of the fines imposed on those convicted of a violation of the Uniform Controlled Substances Act is deposited with the law enforcement agency having responsibility for cleanup of the sites or substances used in the manufacture of methamphetamine.

A recent Court of Appeals case, *State v. Morris* (123 Wn. App.467), ruled that the crime of possessing or manufacturing methamphetamine does not include possession of the "salts, isomers, and salts of isomers" of methamphetamine. The defendant in the case possessed methamphetamine hydrochloride, which is a salt of methamphetamine. The court reversed his conviction because the plain language of the statute does not cover the salts or isomers of methamphetamine. It stated that the Uniform Controlled Substances Act only covers methamphetamine in its pure form. The court relied in part on the fact that the Legislature, in other areas of the drug laws, has specifically referenced the salts and isomers of drugs.

Summary of Bill:

The Uniform Controlled Substances Act is amended to include the "salts, isomers, or salts of isomers" of controlled substances with respect to manufacturing, delivering, and possessing with intent to manufacture a controlled substance classified as a Schedule I or II narcotic drug, a controlled substance classified in Schedule IV, amphetamine, methamphetamine, ephedrine, pseudoephedrine, and pressurized ammonia gas (anhydrous ammonia).

The offense of endangerment with a controlled substance is amended to include a person who knowingly or intentionally permits a child or dependent adult to be exposed to the "salts, isomers, or salts of isomers" of methamphetamine, or ephedrine, pseudoephedrine, or anhydrous ammonia, that are being used in the manufacture of methamphetamine.

The fines imposed on those convicted of a violation of the Uniform Controlled Substances Act will continue to be deposited with the law enforcement agency having responsibility for the cleanup of sites or substances used in the manufacture of methamphetamine, including its salts, isomers, and salts of isomers.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.